

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL TEE STOKES SR.,)

Plaintiff,)

v.)

SCOTT WHITE, and KEARNEY)
COUNTY, NEBRASKA,)

Defendants.)

4:16CV3027

ORDER

This court entered Judgment in this case on August 31, 2017, dismissing this case without prejudice for failure to exhaust administrative remedies under the Prison Litigation Reform Act. (Filing No. [74](#).) In its Judgment, the court inadvertently neglected to warn Plaintiff that **the filing of a notice of appeal will make him liable for payment of the full \$505.00 appellate filing fee regardless of the outcome of the appeal.** This is because the Prison Litigation Reform Act requires an incarcerated civil appellant to pay the full amount of the \$505.00 appellate filing fee by making monthly payments to the court, even if he or she is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\)](#). By filing a notice of appeal, Plaintiff will be consenting to the deduction of the \$505.00 filing fee from his prison account by prison officials.

Without the benefit of the above information, Plaintiff filed a Notice of Appeal on September 18, 2017. (Filing No. [75](#).) Out of an abundance of caution, the court granted Plaintiff leave to withdraw his appeal in light of the above information, and ordered Plaintiff to file, on or before October 6, 2017, a document indicating whether he wishes to pursue his appeal in light of the fact that **filing of a notice of appeal will make him liable for payment of the full \$505.00 appellate filing fee regardless of the outcome of the appeal.** (Filing No. [77](#) at CM/ECF p. 2.)

Plaintiff has now filed a Motion for Leave to Appeal In Forma Pauperis with proper documentation. (Filing No. [78](#).) Pursuant to [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#), because Plaintiff proceeded in forma pauperis in the district court, he may now proceed on appeal in forma pauperis without further authorization.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Appeal in Forma Pauperis (Filing No. [78](#)) is granted.
2. The Clerk of Court shall provide the Eighth Circuit Court of Appeals with a copy of this order.

DATED this 10th day of October, 2017.

BY THE COURT:
s/ Richard G. Kopf
Senior United States District Judge